

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

**MARCUS JAMES SMITH,**

Petitioner,

**v.**

**CLAUDE E. FINN, Warden,**

Respondents.

NO. CIV S-04-1442 DFL GGH P

**ORDER DENYING REQUEST  
TO FILE SUPPLEMENTAL  
ANSWER**

Respondents seek leave to file a supplemental answer to the petition for writ of habeas corpus. This matter has been submitted since October 28, 2004. The undersigned does not need the parties to brief the question of whether or not the court has subject matter jurisdiction based on the recent decisions of In re: Dannenberg, 34 Cal. 4th 1061, 23 Cal. Rptr.3d 417 (2005), and Sass v. California Bd. of Prison Terms, No. Civ. S-01-0835 MCE KJM P, \_\_\_ F. Supp. 2d \_\_\_ [2005 WL 1406100] (E.D. Cal. June 15, 2005). It is sufficient that this court takes judicial notice of these cases. Accordingly, respondents' request to file a supplemental answer to the petition for writ of habeas corpus is denied.

DATED: 8/11/05

/s/ Gregory G. Hollows

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GREGORY G. HOLLOWES  
Magistrate Judge

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